

REMARKS

Claim 74 has been amended by incorporating the subject matter of claims 75 and 76 into it. It has also been amended to encompass methods of making up all keratin materials, not only skin, lips or eyelashes. Support for these amendments exists throughout the entire specification.

Claim 75 has been amended to require the presence of at least one cosmetically acceptable ingredient selected from the group consisting of film formers, volatile oils, and mixtures thereof. Support for these amendments exists throughout the entire specification.

The remaining claims have been amended as appropriate so that they conform to claims 74 and 75 as amended.

Also, claims 76, 80, 82, 84, 86, 92, 95, 97, 100, 104, 106, 108, 110, 116, 119, 121, 124, 128, 130, 132, 134, 140, 143 and 145 have been canceled.

New claims 146-148 have been added. Support for these new claims exists throughout the entire specification.

Claims 74, 75, 77-79, 81, 83, 85, 87-91, 93, 94, 96, 98, 99, 101, 102, 103, 105, 107, 109, 111-115, 117, 118, 120, 122, 123, 125-127, 129, 131, 133, 135-139, 141, 142, 144 and 146-148 are currently pending.

The invention methods relate to making up keratinous material using a **liquid** composition comprising a polysilicone-polyamide ("PSPA") type copolymer and a coloring agent. The Assignee of the present application, L'Oréal, has filed several patent applications involving PSPA-related technology. In many of these applications, the

Office has rejected claims over Dow Corning's Barr and Mendolia patents which disclose PSPA-type copolymers (U.S. patents 6,353,076, 6,051,216, 5,919,441, 5,874,069). The invention methods in the present application are neither taught nor suggested by the Barr and Mendolia patents.

Specifically, the invention methods require application of a liquid composition containing a PSPA-type copolymer. The Barr and Mendolia patents neither teach nor suggest such liquid compositions and, in fact, teach away from such compositions.

The Barr and Mendolia patents are directed to solid and semi-solid compositions which are useful as deodorants. (See, the '076 patent at col. 1, lines 17-19; the '216 patent at col. 1, lines 14-16; the '441 patent at col. 14, lines 44-52; and the '069 patent at col. 17, lines 44-47). The PSPA-type copolymer is used to thicken the deodorant composition. (See, the '076 patent at col. 11, lines 47-50; the '216 patent at col. 12, lines 8-11; the '441 patent at col. 14, lines 40-43; and the '069 patent at col. 17, lines 44-47).

Significantly, although "liquid, roll-on" types of deodorants are discussed in the background section, (see, the '076 patent at col. 1, lines 58-59; the '216 patent at col. 1, lines 58-59; the '441 patent at col. 1, lines 65-66; and the '069 patent at col. 1, line 41), the Barr and Mendolia patents exclude such liquid compositions from the scope of their "invention." For example, the patents distinguish their gels and sticks from liquid compositions (see, the '076 patent at col. 18, lines 58-60; the '216 patent at col. 19, lines 49-50; the '441 patent at col. 18, lines 10-12; and the '069 patent at col. 11, lines 64-66) and specifically instruct that their solid products can be made by cooling a liquid to form the desired solid product. (See, the '076 patent at col. 19, lines 18-22, and the '216 patent at col. 20, lines 12-15).

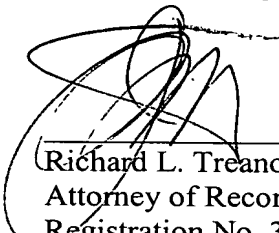
Based on the disclosure in the Barr and Mendolia patents, one skilled in the art would use PSPA-type copolymers to thicken compositions to produce only solid or semi-solid products. In other words, no motivation would have existed to produce liquid, roll-on type compositions containing PSPA-type copolymers given the disclosures in the Dow Corning patents which teach away from the production of such liquid compositions. Moreover, the Barr and Mendolia patents fail to provide any guidance regarding how to produce or use acceptable liquid compositions, meaning that the disclosures in these patents fail to enable the production or use of such liquid compositions.

For all of the above reasons, the Barr and Mendolia patents fail to teach or suggest the invention methods. Accordingly, the invention methods are free of this art.

Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Jeffrey B. McIntyre
Registration No. 36,867

Customer Number

22850

Tel #: (703) 413-3000
Fax #: (703) 413-2220